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PD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/155,982	10/09/98	KLEIN	F 032475-001

HM22/1109  
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EXAMINER	
PORTNER, V	
ART UNIT	PAPER NUMBER

1641

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DATE MAILED:

11/09/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/155,982**

Applicant  
**Klein et al**

Examiner  
**Portner**

Group Art Unit  
**1641**

☒ Responsive to communication(s) filed on Oct 9, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 17-37 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 17-37 are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

Claims 17-37 are pending. Claims 16-36 have been renumbered under 37 CAR 1.126 to be claims 17-37 respectively and original claims 1-16 have been canceled.

**Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

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In accordance with 37 CAR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 17-19, 22-29, 31, 30, 33-34 drawn to monoclonal antibodies, methods of making and using said antibodies directed against *Taylorella* and kits which comprise antibodies to *Taylorella* components, reagents and blocking reagents ..

Group II, claim(s) 20 and 32, 30, 33-34 are drawn to claims which recites a composition comprising a protein, and kits which comprise protein components, reagents and blocking reagents .

Group III, claim(s) 21 and 32 (in so far as the claim recites compositions of anti-antibodies), drawn to antibodies which will interact with monoclonal antibodies and therefore are anti-antibodies of a different type and binding specificity and not to *Taylorella*.

2. The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of Group I which is specific binding of a monoclonal antibody to *T. equigenitalis* differs in structure, function from the protein of Group II and the anti-antibodies of Group III.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CAR 1.143).

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4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CAR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CAR 1.48(b) and by the fee required under 37 CAR 1.17(I).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. **Akuzawa et al (1996)** is cited to show the manufacture of **monoclonal antibodies** against outer membrane antigens of *Typhlorella equigenitalis*.

7. **Fredrich, U (1995)** is cited to show the development of **monoclonal antibodies** used in diagnosis of *Typhlorella equigenitalis*.

8. **Guerin, B (1992)** is cited to show two major lipopolysaccharides of *T. equigenitalis*.

9. **Sugimoto et al (1988)** is cited to show the isolation and characterization of outer membrane antigens of *Typhlorella equigenitalis*.

10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginny Portner whose telephone number is (703)308-7543. The examiner

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can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM except for the first Friday of each two week period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for this group is (703) 308-4242.

The Group and/or Art Unit location of your application in the PTO will be changing February 7, 1998. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art 1641.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vgp

November 3, 1999



CHRISTOPHER L. CHIN  
PRIMARY EXAMINER  
GROUP 1641



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

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